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Dear Sir,

**Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill
2014**

Before the Government removes payments, it needs to answer a question: are the appointments it seeks to oblige people to attend of any value. The short answer is: no. I raised many of my concerns about the Job Seeker Compliance Regime during the last Parliament. That submission was provided then to the inquiry into *'The administration and purchasing of Disability Employment Services in Australia'*.¹ I carefully laid out the non-productive activities of the lazy and ineffectual rent-seekers who populate the not-for-profit sector, in the name of *allegedly* finding the unemployed (including disabled people, like me) work.

Nothing happened. Instead, Labor and Liberal administrations kept funding the charity/non-government sector, in a mutually satisfying game. The Government could say it was "doing something" for the unemployed; the NGOs received a steady stream of public funding for churning people through endless assessments and job-readiness exercises. It is a cartel of red tape, wasted public money and individual misery, which undoubtedly damages many people.²

¹ See my submission at <https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=a6fa4e6a-eb31-49de-bb0f-c9f11849c86c> as at 27 October 2014

² For example, in 2009 journalist Adele Horin wrote a telling article about how Centrelink operates. A witty headline writer had declared 'You'll work like a dog to keep Centrelink happy', possibly in the mistaken belief that this was an ironic turn of phrase. Under this, Ms Horin had written in part:

I have vivid memories of a young man I interviewed who had had his unemployment benefit stopped for eight weeks. Even though he had been reduced to sleeping on the streets, he held onto a neat folder containing copies of every job application he had ever made, and all written responses, as well as every piece of correspondence from Centrelink filed in individual plastic envelopes. I marvelled at his orderly habits in stark contrast to the chaotic jumble on my desk. But even he had slipped up in the end, transgressing some rule or other. (Source: Adele Horin, *You'll work like a dog to make*

I say this not only as someone with cerebral palsy which has confined to a wheelchair, but as a solicitor, former full and part-time employee, taxpayer and current disability pensioner. If there is a 'budget emergency' or even a significant budget deficit needing repair, I am angry that my tax dollars were and are being thoroughly wasted propping up an NGO sector, to provide employment services. NGOs are, for a variety of reasons, not fit and proper bodies to be the custodians of public funds. They are uncompetitive,³ many have questionable governance practices⁴ and, there are legislative loopholes which allow many NGOs to escape proper accountability.

For example, in NSW the Auditor-General is currently unable to audit the performance of NGOs who receive public funds. Once the funds move from a State agency to an NGO bank account, the monies fall outside the Auditor's jurisdiction. Viewing this as entirely unacceptable, I wrote to the NSW Public Accounts Committee's (PAC) *Inquiry into Efficiency and Effectiveness of the Audit Office of NSW*.⁵ The Committee endorsed the recommendation:

That legislation be amended to provide the NSW Auditor-General with power to inspect, examine and audit the accounts of NGOs that have been provided with government funding.⁶

Of course, it is not for me to claim credit for it; the recommendation came from the NSW Independent Commission Against Corruption's Position Paper: *Funding of NGO Service Delivery of Human Services in NSW: A Period of Transition*.⁷ My purpose in approaching ICAC was to emphasise my growing unease at the conduct of many in the NGO sector.⁸ However, I was happy to press the PAC's findings, specifically Recommendation 5, which called for 'follow the dollar' legislation.⁹ I also

Centrelink happy, January 31, 2009 <<http://www.brisbanetimes.com.au/news/opinion/youll-work-like-a-dog-to-make-centrelink-happy/2009/01/30/1232818724404.html>> as at 10 June 2010

³ See my submission to the Competition Inquiry at

<http://competitionpolicyreview.gov.au/files/2014/07/ADJ.pdf> as at 26 October 2014

⁴ See my submission to Treasury's Review of NGO Governance at

<http://www.treasury.gov.au/~media/Treasury/Consultations%20and%20Reviews/Consultations/2011/Review%20of%20not-for-profit%20governance%20arrangements/Submissions/PDF/Johnston%20Adam.ashx> as at 26 October 2014.

My conclusions are that the vast majority of charities should not receive public funding, should not be contracted to deliver public services and, that there should be a major review of the grants, donations and other gratuities that all levels of government seem happy to repeatedly advance to the NGO sector.

⁵ See generally,

<https://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/74E198EBC654BA7BCA257B1E00119EB6> as at 27 October 2014

⁶ See my submission to the Public Accounts Committee (page 2 of 11) at

[https://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bddedc83e0a9ff20ca257bcf000c442c/\\$FILE/Submission%20No%207.pdf](https://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/bddedc83e0a9ff20ca257bcf000c442c/$FILE/Submission%20No%207.pdf) as at 27 October 2014

⁷ See ICAC's webpage http://www.icac.nsw.gov.au/component/docman/doc_download/4044-funding-ngo-delivery-of-human-services-in-nsw-a-period-of-transition as at 23 March 2013

[http://www.parliament.nsw.gov.au/Prod/Parlment/committee.nsf/0/7a16b6d80ef9244cca257bea0023d739/\\$FILE/Efficiency%20and%20effectiveness%20of%20the%20Audit%20Office%20of%20NSW.pdf](http://www.parliament.nsw.gov.au/Prod/Parlment/committee.nsf/0/7a16b6d80ef9244cca257bea0023d739/$FILE/Efficiency%20and%20effectiveness%20of%20the%20Audit%20Office%20of%20NSW.pdf) as at 27 October 2014

strongly endorse Recommendation 2, which addresses the issue of performance audits.¹⁰ My lobbying on this issue continues, noting the NSW Government's Response.¹¹

From a Commonwealth perspective, the Government needs to ensure it properly audits the billions of dollars it gives the NGO sector. At the same time, the Committee should ask the Government to explain how it can, on the one hand, hold Parliamentary Sitting Days for cutting red tape, while 'ratcheting-up-the-regulation' on a dubious compliance scheme; staffed by equally dubious NGOs. It is strange that the Government wants to move on this Bill now, when (as far as I know) the public is yet to see an official response to the McClure Welfare Review. My own submission to the McClure Review made clear:

In the end, you can launch as many targeted programmes as you like (or more correctly, those your budget will allow). The moments of truth will be 1) Who is hired to run them? 2) Does the target audience respond? 3) Is there genuine follow up? and; 4) What happens when the programme finishes? I have applied to initiatives like PACE and "Stepping Into" on the recommendation of my principal employment agent (at various times). Usually, the answers to my 4 earlier questions are 1) The usual NGO suspects; 2) Yes, but usually with: "Oh my Gaud! Here we go again!; 3) No, but I wonder where the money goes?; 4) Another period of unemployment.¹²

And specifically in relation to Employment Service Providers, I said in the same answer:

While the OECD may think much of Job Services Australia, my view of it and its related specialist disability agencies is far more circumspect. If these bodies hold up well against international comparison, then the bar must be six-feet under the ground, so to speak. I am not trying to overstate the point; service providers and what they provide is dreadful. It is appreciated that these "services" are free to the unemployed (who are obliged to access them), which may well speak not only to the fact that jobless people have limited income, but also what would happen to many services in a user-pays scenario.¹³

It needs to be remembered that the NGO sector rarely attracts the 'best and the brightest'; this has certainly been my experience in dealing with Employment Services Providers. A steady cycle of mind-numbingly dull social workers and other welfare Neanderthals¹⁴ have consistently failed to even come close to identifying employers with work for me; be it temporary or ongoing. Some have even privately admitted that they do not know what to do with someone with my qualifications.¹⁵ As I told Professor Julian Disney's previous review into the Compliance System:

For all the importance placed on (the employment contract with the job agency) by the compliance regime, I have not cited it since signing it sometime in July 2009. Its principal terms were that the parties aimed to place me in legal or paralegal work. While my

¹⁰ See *ibid.*

¹¹ See generally,

[http://www.parliament.nsw.gov.au/Prod/Parlment/committee.nsf/0/7a16b6d80ef9244cca257bea0023d739/\\$FILE/Government%20Response%20to%20Public%20Accounts%20Committee%20Report%2011%2055%20-%20Efficiency%20and%20Effectiveness%20of%20the%20Audit%20Office%20of%20NSW%20-%20dated%2031%20March%202014.PDF](http://www.parliament.nsw.gov.au/Prod/Parlment/committee.nsf/0/7a16b6d80ef9244cca257bea0023d739/$FILE/Government%20Response%20to%20Public%20Accounts%20Committee%20Report%2011%2055%20-%20Efficiency%20and%20Effectiveness%20of%20the%20Audit%20Office%20of%20NSW%20-%20dated%2031%20March%202014.PDF) as at 27 October 2014

¹²

¹⁴ I apologise to any Neanderthals offended by their comparison to social workers

¹⁵ See my qualifications, outlined on the front of this submission. Unless one can do manual labour in a factory or Special Business Enterprise (sheltered workshop), many employment agencies seem to have nothing to offer

employment provider introduced me to my current employer a number of years ago, my current job (commencing late last year¹⁶) came independently of either my employment service provider/agent, or the compliance system. That is: I got it myself. My provider became relevant in their ability to assist my employer to make some adaptations to the workplace to accommodate me.

The compliance system can take none of the credit for my current employment. Ultimately, it is ridiculous to think that a system which seeks to check the minuscule detail of whether job seeker X attended an interview is (not) doomed to be an administrative Goliath liable to trip on its own feet. Again, as I asked in my last submission, has anyone bothered to do a cost/benefit analysis of the Goliath?

Equally, one disputes that penalties, fines or other reductions in payments necessarily turns the reluctant job seeker into the enthusiastic potential employee; indeed, it may harden their resolve to undermine employment efforts. I recall one participant at our consultation meeting relating the case of a person who continually moved address, who was listed on an employment provider's books, but had not been sighted by anyone for months. While the full facts of that particular case are unavailable, one thing that can be gleaned from this example is that determined individuals will always find ways to evade official processes. Further, it should be asked whether there is any real point in pursuing such people, given the time, effort and expense potentially involved.¹⁷

Equally, when the Minister for Workforce Participation made comments recently, to the effect that job seekers who were missing appointments were missing opportunities and jobs, I was prompted to write to him. As stated earlier, I am confined to a wheelchair; this also means one is heavily reliant on Wheelchair Accessible Taxis (WATs). This transportation costs money and, generally the mobility allowance covers one trip to see an agent, but not the fortnightly trips routinely required. There is no cause for me to dip into my own pocket, to meet with 'NGO deadbeats' whom I know from experience will not secure me employment. Furthermore, many are reluctant to conduct phone interviews, or come to you themselves.¹⁸ They insist rules require I attend their offices, despite the fact they are the only ones receiving a wage for demonstrating how negligible productivity and chronic, structural underemployment are the hallmarks of a government-subsidised employment agency.¹⁹ As I told the Minister in part:

(Despite) your Government's stated aversion to industry welfare, you apparently see no inconsistency in subsidising any number of NGOs to funnel people through various "training" and "subsidised job schemes". However, it is not hard to work out that when the subsidy ends, so does the job. This is a point I have made to the current McClure Review into Welfare, as well as a previous Senate Inquiry into Disability Employment Services, seemingly without success. As someone involved as a client of these services since the early 2000s, I have heard many promises of reform, only to see the same alleged service providers do the same job, as badly as usual. This is what annoys me more than anything else about the whole "Welfare to Work" debate. Much of my time is spent cleaning up various

¹⁶ The submission I am quoting from was written by me in 2011. The employment agent is gone, the temporary contract of employment has long since concluded and, I am currently unemployed

¹⁷ See my assessment of the disability welfare and employment systems at <http://www.deewr.gov.au/Employment/ComplianceReview/Documents/AdamJohnstonSubReviewFinal.rtf> as at 29 March 2011. This document is also available at the link listed in footnote 1, above (page 40 of 68)

¹⁸ I tried campaigning for more "working from home" and a general reconsideration of what it means to work, as part of a review of the Disability Discrimination Act; see generally

¹⁹ I make this remark in relation to all agencies I have dealt with.

administrative failings of NGO employment agencies funded by the Government. Yet, various Governments seem content to let this largely ineffectual system roll on. This has been raised with your Departmental Secretary and, is now referred to the Secretary for Employment. I await Ms Paul's response with interest.

While I await a Ministerial response, I have received various letters from the Department. Administrative problems do regularly show up in regards to Employment Pathways Plans. This process never seems to improve.²¹ I noted when reading the August 2014 letter, that there was a reference to alternatives to DES (Disability Employment Services) providers.²² However, when checking with the Department, what this meant was that there were alternative DES providers. To receive my mobility allowance, I was still required to pick one of Human Services' moribund NGO employment services providers.

And when agents could not find you a paying job, the default position is: put the client in training. As I told the McClure Review, this is based more on what benefits the agency, rather than the unemployed client.²³ That too, has become an exercise in me "cleaning up the mess" left by an employment agent, making various inquiries about a New Enterprise Incentive Scheme (NEIS) Provider and, becoming increasingly bemused about the standing of the allegedly nationally accredited training certificate NEIS presented to me.²⁴ Complaints to the Fair Work Ombudsman, the Charities Commission and the Department ensued. However, none of their responses alerted me to the existence of the Australian Skills Quality Authority (ASQA). This was a body discovered by accident while watching an evening current affairs program, the ABC's 7:30, on the television.

A complaint is currently lodged with ASQA²⁵ and, I await the result with interest. However, I provide it as an example of the nonsense that goes on in the name of making people "job ready". My conclusion at the end of the NEIS program was that this was just another one of the rent-seeking NGO snake-oil salesmen who inhabit the noxious den of iniquity that is employment service provision. As such, the Committee would not be surprised that I have written to the Government in the form of a pre-Budget submission and a submission to the National Commission of Audit, urging an end to Government grants to charities, an end to tax-free status for charities and, an end to tax deductibility for charitable donations.²⁶ I also urge a crackdown on the definition of what it is to be a charity.²⁷ If these bodies should (unfortunately) continue to receive public money, expectations as to their conduct must be lifted substantially.²⁸

²³ See Appendix 3, p.4 of 24

²⁴ This was a qualification my professional association, the Law Society of NSW, declined to recognise

²⁵ See FW: *Receipt of complaint regarding Business Enterprise Centre Northside Ltd*, SENT: Sat 25/10/2014 8:57 PM to 'ComplaintsTeam@asqa.gov.au'

²⁷ See generally my submission on the definition of a charity at

<http://www.treasury.gov.au/~media/Treasury/Consultations%20and%20Reviews/Consultations/2013/A%20statutory%20definition%20of%20charity/Submissions/PDF/Johnston%20Adam.ashx> as at 28 October 2014

²⁸ I recently made a submission to the Panel of Experts inquiry into Electoral Funding Reform in NSW. The submission is available at http://www.dpc.nsw.gov.au/data/assets/pdf_file/0003/166008/Submission_19_-

For all of these reasons, the current Bill asks the wrong question and tries to solve the wrong problem. In many ways, it tries to solve the 'problem' of unemployment with the 'blunt instrument' of penalties. Further, the Government bases its rationale on a faulty premise; that employment services providers produce employment outcomes. What counts as employment may well be a subsidised temporary placement, which does little more than perpetuate a cycle of welfare dependency.

Furthermore, the Government needs to recognise that many in the NGO sector are there for a very good reason; the productive, open market economy had no use for them. To be sure, I have met a few bright, engaged and motivated people in the sector, who have a work and service ethic. Sadly, these 'beacons of light' never stay long; their skills and talents are soon seen, or they are working in the sector as a launching pad to greater academic, personal and professional goals. I do not decry them any of this; indeed, I salute it, but it shows what is left for the unemployed to deal with.

Additionally, I have already made some references to probity issues and, in general, wondering where all the money goes? Such things will come back to bight parliaments and governments, now and in the future, unless a more critical view is taken of NGO performance. I also take it as something of personal insult; there appears to be an unstated assumption that I should readily accept the charity of NGOs because I am either disabled and/or unemployed. This is not good enough. As I told the Australian Law Reform Commission's Inquiry into *Disability, Capacity and the Law*:

(While) I am as far from a socialist as one could be, Oscar Wilde's words (in the *Soul of Man Under Socialism*) nonetheless struck a chord with me. Charity does indeed degrade and demoralise, particularly when you realise that by design, many of the agencies of the State of which you are supposedly a citizen, are only too happy to cast you off, into the care of various charities for the term of your natural life, simply on the basis of your disability. This must be confronted and challenged, before a modern day form of slavery, currently known as charity, becomes further institutionalised, to the point where you are more readily identified as a client of a charitable service, rather than as a citizen. In many ways, this is already happening (as) it appears the government would prefer me, and many like me to live in the shadows, outside the public square. It seems I should be satisfied with the vagaries of international conventions and, the generalised clichés and motherhood statements of a National Disability Strategy. This is all far from adequate, if I am indeed a citizen, rather than a mere object of publicly subsidised charity and pity.²⁹

Finally, when writing my submission to the McClure Review, I deliberately took time to reflect on how realistic it was for a disabled pensioner who is 41 years of age, to gain employment. I also took time to discuss where I thought the focus should be; that is on scientific research and medical cures, ensuring there are fewer and fewer sick, disabled or otherwise incapacitated people, suffering and unable to work. This is preferable to hiring still more idiotic case managers and social workers incompetently running pointless activity and training programs. We may well have to learn to live with higher levels of both under-employment and unemployment than policy makers would like, but it is doubtful that more of the same old strategy (which is what is proposed by this Bill), will work here. It has not done so before.

[Adam Johnston.pdf](#) as at 28 October 2014. In particular, I draw your attention to the submission's appendix (pages 6 to 9 of 9) which laid out a proposal to make NGO's directly accountable to Parliament

²⁹ My submission to the ALRC, pages 3-4 of 15 at

http://www.alrc.gov.au/sites/default/files/subs/12_a_johnston.pdf as at 28 October 2014

I recommend the Bill be declined by the Senate. I am happy to meet with the Committee to discuss issues further.

Yours faithfully,

Adam Johnston

28 October 2014